

## **REMARKS**

With this response, claims 1, 10, 12, 18, 27, and 35-36 are amended. Applicants respectfully request that claim 34 be canceled without prejudice. Claims 52-58 are currently added. Therefore, claims 1-33 and 35-58 are pending.

## **ALLOWABLE SUBJECT MATTER**

Claims 7-12 and 34-36 were objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form. Applicants respectfully submit that the rejections to claim 1, from which claims 7-12 depend, have been overcome herein. Claim 34 has been canceled, and claim 27 amended to incorporate the limitations of claim 34. Thus, the objection to claim 34 is rendered moot, and claims 35-36 now depend from claim 27, which now includes the limitations of claim 34 found to be allowable. Therefore, Applicants submit that these claims are allowable as currently presented herein. Therefore, Applicants respectfully request that the objection to these claims be withdrawn.

## **CLAIM REJECTIONS - 35 U.S.C. § 101**

Claims 40-51 were rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Applicants respectfully traverse. Claim 40 recites in part the following:

An **article of manufacture**, comprising:  
a **machine accessible medium** providing instructions, that when executed by a machine, cause the machine to [perform functions/operations].

Claim 44 recites similar language. The remainder of the claims depend from claims 40 and 44. Applicants respectfully submit that an article of manufacture comprising a machine accessible medium "defines a useful machine or manufacture by identifying the physical structure of the machine or manufacture in terms of its hardware or hardware and software combination," and thus "it defines a statutory product" according to MPEP §2106(IV)(B)(2)(a). Applicants claim

an article of manufacture identified by a machine accessible medium having instructions to cause the machine to perform functions/operations. Thus, Applicants claim a manufacture that is structurally and functionally related to the medium, and therefore Applicants contend that the invention as recited in the claims is statutory subject matter. Applicants therefore respectfully request that this rejection be withdrawn.

### **CLAIM REJECTIONS - 35 U.S.C. § 103**

#### **Claims 1-4 and 13-15**

Claims 1-4 and 13-15 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,332,075 issued to Verdonk (*Verdonk*) in view of U.S. Patent No. 6,711,151 issued to Ziegler (*Ziegler*). Applicants respectfully submit that these claims are not rendered obvious by the cited references for at least the following reasons.

Claim 1 as amended herein recites the following:

**selecting at the base station a first of multiple radio frequency (RF) resources to transmit a page;**  
transmitting the page from the base station via the first RF resource;  
receiving the page at the user terminal via the first RF resource;  
selecting at the user terminal one of multiple resources to transmit a page response, the resource comprising a sequence of radio frequency resources that follow a hopping sequence;  
transmitting the page response from the user terminal via the resource in response to the page; and  
transmitting the data stream between the base station and user terminal via a second RF resource.

Applicants note that *Verdonk* discusses a wireless communication system, with various operations occurring in various locations within the system, such as the base stations, "base station controllers (BSCs), with each BSC serving a plurality of base stations," (col. 1, lines 32 to 34), and mobile switching centers (MSCs), with multiple BSCs connected to a MSC (See col. 1, lines 34 to 36; Figure 1). The Office Action at page 3 asserts that Figures 4A and 4B disclose

various aspects of the invention, specifically referring to the paging signal 412 and the call servicing 426. Applicants note that *Verdonk* at col. 7, line 26 to col. 8, line 15 discusses that 412 and 426 are operations performed by originating and serving MSCs, and **not** by a base station. Thus, even assuming the paging signal 412 could be interpreted as disclosing transmitting a page as recited in claim 1, which Applicants do not concede, *Verdonk* is clear that selecting the paging resources is performed at the MSC, and **not** at the base station. In contrast, claim 1 recites **selecting an RF resource at the base station**. Thus, Applicants submit that *Verdonk* fails to disclose or suggest at least this element of the claimed invention.

The Office Action further cites *Ziegler* as disclosing frequency hopping. Whether or not *Ziegler's* discussion of frequency hopping in BLUETOOTH discloses the hopping sequence as recited in the claim, which Applicants do not concede, *Ziegler* fails to cure the deficiencies of *Verdonk*. Therefore, the cited references, whether alone or in combination, fail to disclose or suggest at least one element of the claimed invention, and so fail to support a prima facie obviousness rejection under MPEP §2143.

Claim 1 is thus shown to be nonobvious over the cited references. Claims 2-4 and 13-15 depend from claim 1. Claims that depend from a nonobvious base claim are likewise nonobvious. MPEP §2143.03.

**Claims 16-33 and 37-39**

Claims 16-33 and 37-39 were rejected under 35 U.S.C. § 103(a) as being unpatentable *Verdonk* and *Ziegler* in view of U.S. Patent No. 6,181,945 issued to Lee (*Lee*). Applicants note that *Lee* suffers from the same deficiency as *Verdonk*, as discussed above. In *Lee*, as in *Verdonk*, an MSC (mobile switching center) is discussed as performing various operations. See col. 2, lines 21 to 40. The Office Action has failed to show that the MSC performing these operations is

analogous to similar operations being performed at the base station. Applicants contend that the cited references fail to disclose that an RF resource is selected at a base station.

#### **Claims 16-17**

Claims 16 and 17 depend from claim 1, discussed above. Claim 1 is shown above to be nonobvious over *Verdonk* and *Ziegler*, and *Lee* suffers the same deficiencies as these references. Thus, the cited references, whether alone or in combination, fail to disclose or suggest at least one element of claim 1. Therefore, claim 1 is nonobvious over the cited references under MPEP §2143, and claims 16-17, which depend from claim 1, must likewise be nonobvious over the cited references. MPEP §2143.03.

#### **Claims 18-26**

Claim 18 recites selecting at a base station an RF resource, similar to that discussed above with respect to claim 1. As discussed above with respect to claim 1, the cited references, whether alone or in combination, fail to disclose or suggest at least this element of the claimed invention. Therefore, Applicants respectfully submit that claim 18 is nonobvious over the cited references under MPEP §2143. Claims 19-26 depend from claim 18, and thus they depend from a nonobvious base claim. Applicants respectfully submit that these claims are not rendered obvious by the cited references at least because claims depending from a nonobvious base claim are likewise nonobvious. MPEP §2143.03.

#### **Claims 27-33 and 37-39**

As mentioned above, claim 27 is amended herein to include limitations of claim 34 found to be allowable. Thus, Applicants respectfully submit that claim 27 is allowable as amended herein. The remaining claims depend from claim 27, and thus necessarily include the limitations of the allowable base claim from which they depend. Therefore, Applicants respectfully submit

that these claims are likewise allowable for at least the reason that they include the allowable claim limitations.

### **NEW CLAIMS**

Claims 52-58 are presented herein. While they have not yet been examined under the cited references, Applicants respectfully submit that these claims include at least one limitation not found in the cited references, and therefore should be found allowable over the cited references.


### **CONCLUSION**

For at least the foregoing reasons, Applicants submit that all rejections have been overcome, placing all pending claims in condition for allowance. Such action is earnestly solicited. The Examiner is respectfully requested to contact the undersigned by telephone if such contact would further the examination of the present application.

Please charge any shortages and credit any overcharges to our Deposit Account number 02-2666.

Respectfully submitted,  
**BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN, LLP**

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\_\_\_\_\_  
Vincent H. Anderson  
Reg. No. 54,962

12400 Wilshire Blvd.  
Seventh Floor  
Los Angeles, CA 90025-1026  
Telephone: (503) 439-8778